

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FREDERICK DIONTAE MORROW,)
Petitioner)

v.)

No. 3:06-0955
Judge Haynes

WAYNE BRANDON, Warden)
Respondent)

PETITIONER'S MOTION TO RECONSIDER

Pursuant to Fed. R. Civ. P. 59(e) and Habeas Rule 11, petitioner Frederick Morrow moves this Court to reconsider its order dismissing his petition under the statute of limitations. The Court did not address Morrow's argument based on *Jimenez v. Quartermaster*, 129 S. Ct. 681 (2009), which has confirmed Morrow's argument as to the date of finality. (R.42, Petitioner's Supplemental Response to Statute-of-Limitations Defense (explaining *Jimenez*'s support).) In light of *Jimenez*, this Court should vacate its order dismissing Morrow's petition.

Factual Background¹

Frederick Morrow appealed his felony-murder conviction to the Tennessee Court of Criminal Appeals (TCCA) but was denied relief in December 1998. He was entitled to make a further appeal to the Tennessee Supreme Court through a Rule 11 application. His attorney, however, failed to file the Rule 11 application.

Morrow subsequently pursued state post-conviction relief. In those proceedings, he requested leave to file an out-of-time appeal in the form of a Rule 11 application. In April 2004, the post-conviction judge granted that request, allowing him to file the Rule 11 application.

¹Petitioner has supplied a detailed timeline of events in his Response to Statute-of-Limitations Defense, D.E. 24.

DRD SM

Upon review
this motion is
GRANTED. The
prisoner has 30
days to file any
additional
proof.
J. Lee
NSA
6-29-10